

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

Adoption of Narcotic Treatment Program (NTP) Regulation Sections 10056 and 10057, Title 9, California Code of Regulations

NTP LICENSING FEES

Initial Statement of Reasons

This regulatory action will adopt new regulation Sections 10056 and 10057, Title 9, California Code of Regulations (CCR). Section 10056 allows ADP to assess annual licensing fees for NTPs to cover the actual cost of licensing NTPs. Section 10057 establishes standards for administrative review of licensing actions, including civil penalties assessed for failure to pay licensing fees.

STATEMENT OF NECESSITY

Section 10056:

ADP is adopting new Section 10056 because it is needed to implement, interpret, and make specific HSC Sections 11839.3, 11839.5, and 11839.7 by allowing ADP to increase licensing fees for NTPs to a level sufficient to cover all ADP costs associated with licensing NTPs.

Annual licensing fees have not been increased since FY 1994-95. As a result, actual expenditures for licensing NTPs have gradually exceeded revenue collected from licensing fees. As a result, ADP has depended on other funding sources to cover costs exceeding revenue. With the annual growth of NTPs and the limited availability of other funds, ADP needs to increase licensing fees in order to cover the cost of licensing NTPs.

Section 10056 establishes the method for calculating the amount of the licensing fee increase for FY 2006-07 and every year thereafter, plus an amount to cover other revenue expended for licensing NTPs during the years from FY 1995-96 through 2004-05. In order to determine the amount of annual increase, ADP will compare two percentages from the prior fiscal year: (1) the annual percentage increase of the Consumer Price Index (CPI) and (2) the annual percentage of excess cost, calculated by comparing actual cost of licensing NTPs to revenue collected through licensing fees. ADP will use the lower percentage (i.e., CPI increase or excess cost) to determine the amount of the annual licensing fee increase. For licensing fee increases beginning FY 2006-07 and every year thereafter, ADP will determine whether the percentage of CPI or excess costs is lower. ADP will use the lower percentage to calculate the amount of licensing fee increase. The amount of licensing fee increase will be added to the licensing fee for the prior year to determine the current annual licensing fee.

In addition, ADP will also collect an amount to cover fee increases for the period. ADP has determined that for each fiscal year from 1995-96 through 2004-05, the percentage of CPI increase has been lower than the percentage of excess costs. Therefore, ADP will use the CPI percentage calculate the increase in fees for each fiscal year from FY 1995-96 through 2004-05. To ease the burden on NTP providers, the cumulative total will be divided into thirds and one-third will be added to the annual licensing fee for FY 2006-07, 2007-08, and 2008-09. Each year ADP will notify NTPs of the amount of and the method used to determine the increase in annual licensing fee, the amount of prorated fee increase for FY 1995-96 through 2004-05, and the total amount of licensing fee to be paid for the next fiscal year.

ADP is also adopting proposed Section 10056 because it is needed to implement, interpret, and make specific HSC Sections 11839.7 and 11839.10 by establishing standards for payment of NTP licensing fees, consequences for failure to pay licensing fees, procedures ADP will follow if a licensee fails to pay licensing fees, and civil penalties for failure to pay licensing fees.

Section 10057:

ADP is adopting proposed Section 10057 because it is necessary to implement, interpret, and make specific HSC 11839.12 by establishing a process for administrative appeal of licensing actions, including civil penalties for failure to pay licensing fees. This regulation is needed to provide due process for NTP providers.

The specific necessity for each regulatory change is described in the attached annotated text of regulatory changes, which is hereby incorporated by reference.

FISCAL IMPACT STATEMENTS:

The Department does not anticipate any cost associated with implementation of these regulations because the regulations do not expand the scope of the implementing statutes. Any costs would be associated with implementation of the statutes rather than with implementation of the regulations themselves.

Costs or Savings in Federal Funding to the State: No costs or savings are anticipated.

Costs or Savings to Any State Agency: None. Workload will be absorbed using existing resources.

Costs or Savings to Any Local Agency or School District: No costs or savings are anticipated.

Nondiscretionary Costs or Savings Imposed on Local Agencies: This regulatory action

will not result in any nondiscretionary costs or savings to local agencies.

Local Mandate Determination: The Department has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Business: The Department does not anticipate any adverse economic impact on business because these regulations do not expand the scope of the implementing legislation.

The Department has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses. This regulatory action will not affect the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Effect on Small Businesses: The proposed regulatory action will affect small businesses because many NTP programs are small businesses as defined in Government Code Section 11342.610. The Department has determined that this regulatory action will result in no cost or savings to small businesses because the regulations do not expand the scope of the implementing statutes.

Effect on Housing Costs: This regulatory action will not affect housing costs in any way.

CONSIDERATION OF ALTERNATIVES:

Pursuant to Section 11346.5(a)(13) of the Government Code, ADP must determine that no alternative would be more effective in carrying out the purpose for which this regulatory action was taken. ADP must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. ADP will consider any alternatives presented during the public comment periods.